

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

OP.No. 33614 of 2000(B)

PETITIONER:

A.P. BALAKRISHNAN,
MANAGER,
CHANDAN BROTHERS HIGHER SECONDARY SCHOOL,
P.O. VALLIKUNNU, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
GENERAL EDUCATION (A) DEPARTMENT,
GOVERNMENT SECRETARIAT,TRIVANDRUM.
2. THE DIRECTOR OF PUBLIC INSTRUCTION, TRIVANDRUM.
3. THE DEPUTY DIRECTOR OF EDUCATION, MALAPPURAM.
4. THE DISTRICT EDUCATIONAL OFFICER, THIRUR.
5. SMT. S. SUSEELAMMA,
HIGH SCHOOL ASSISTANT (UNDER SUSPENSION)
C.B.H.S.S., VALLIUNNU, RESIDING AT MADONA,
NALLUR, FEROKE P.O. KOZHIKODE DISTRICT.
6. E. NEELAKANTAN, PRINCIPAL,
CHANDAN BROTHERS HIGHER SECONDARY SCHOOL,
P.O. VALLIKUNNU, MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER SMT. LAKSHMI RANI
ADV. SRI.P.C.SASIDHARAN
SRI.P.K.VIJAYAMOHANAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 03/04/2007, ALONG WITH W.P.C NO. 12258 OF 2005 &
W.P.C NO. 16828 OF 2006, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

OP.No. 33614 of 2000

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ORDER ON C.M.P.No.57430 OF 2000 IN O.P.No.33614 OF 2000

DISMISSED

03.04.2007

Sd/- A.K.BASHEER,JUDGE

TRUE COPY

P.A.TO JUDGE

A.K.BASHEER,J
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O.P.No.33614 OF 2000
&
W.P.(C).Nos.12258 OF 2005 & 16828 OF 2006
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Dated this the 3rd day of April, 2007

JUDGMENT

These three writ petitions are the offshoot of a disciplinary proceeding initiated by the manager of a Higher Secondary School against a teacher who had allegedly committed grave misconduct and other acts of misdemeanor. There were, several earlier litigations before this court in respect of the same issue. This batch of cases, hopefully, will close the chapter. The parties and documents as they appear in writ petition No.16828 of 2006 shall be referred to in this judgment hereafter, unless otherwise indicated.

2. Petitioner placed respondent No.5 under suspension with effect from July 21, 2000 on the allegations that she had caused ill repute to the institution by making false allegations against the headmaster. Though the order of the manager was justified by the District Educational Officer, the Director of Public Instructions and the Government took the view that the action of the manager was totally illegal and unwarranted. Therefore, the teacher was ordered to be reinstated. But the manager did not comply with the above direction. On the contrary, he approached this court. Ultimately this court held against the petitioner and relegated him to the statutory

authorities. Later, the Government passed another order directing the petitioner to reinstate respondent No.5. The said order was again challenged by the petitioner in this court. Ultimately, however the petitioner had to reinstate respondent No.5, on the basis of the interim direction issued by the Division Bench of this court in Writ Appeal No.2354 of 2002. Respondent No.5 got back into service on October 8, 2002. The Division Bench while ordering reinstatement of the petitioner had issued a direction to the District Educational Officer to expedite the disciplinary enquiry against respondent No.5. The Officer found that the charges levelled against respondent No.5 were not tenable or sustainable, and accordingly she was exonerated. Petitioner challenged the above order before the statutory authority. Ultimately by Ext.P7 the Government concurred with the view taken by the lower authorities.

3. The said order is under challenge in writ petition No.16828 of 2006. In view of the order that I propose to pass in this case it is not necessary to refer to the orders which are under challenge in the two other writ petitions which have admittedly become infructuous .

4. Learned Senior counsel Sr.K.P.Dandapani has taken me through the impugned order and other relevant materials. It is

vehemently contented by him that the statutory authorities were apparently influenced by the interim order passed by the Division Bench of this court, while deciding the legality and tenability of the disciplinary proceedings initiated against respondent No.5. He points out that the report of the District Educational Officer on the face of it undoubtedly shows that there was no application of mind. The issue involved in the case was not considered in its true perspective. The officer had casually referred to the charge and jumped to a conclusion without advertng to any of the material or relevant aspects of the charge. Learned senior counsel further submits that the Government while passing Ext.P7 order had committed the same mistake and decided the issue without considering the merit of the contentions raised by the petitioner. He lays heavy emphasis on the fact that the entire teacher community in the school had requested him to ensure that appropriate disciplinary action was taken against respondent No.5. He had acted only in deference to the wishes of the teaching community . It is further contented by the learned senior counsel that the petitioner had never shown any vengeful attitude towards respondent No.5. Whatever action taken by him was only in the better interest of the institution.

5. It may be true that the petitioner had placed respondent

6. In this contest it is pertinent to refer to some of the admissions allegedly made by the Headmaster himself in the course of enquiry conducted by the Departmental officer. It appears that the headmaster admitted that he had asked respondent No.5 the name of the pill that was used for stopping menstrual pain. He had also admitted that he used to give "Debonair" magazine to the teachers.

7. All the circumstances, I have carefully perused the entire materials on record mentioned above persuade me to come to the conclusion that the disciplinary proceedings initiated against respondent No.5 was not justified as concurrently held by the authorities below. Any how the fact remains that the petitioner had been reinstated in service and the disciplinary proceedings initiated against her have culminated in her exoneration from the charges levelled against her. It is also on record that the Headmaster has retired from service. In the above facts and circumstances what remains is only the question whether any interference is warranted at this stage in the order passed by the statutory authorities.

8. Having heard learned counsel for the parties and on perusal of the materials placed on record, I do not find any justifiable reason to interfere with Ext.P7 order. Therefore the contention raised by the petitioner against Ext.P7 order is repelled.

9. Learned senior counsel submits that the proceedings initiated against the petitioner under Rule 7 Chapter III will hang over

his head as a sword of Damocles. The statutory authority may proceed against the petitioner particularly since his challenge against Ext.P7 order falls to the ground. I do not find any reason why the statutory authority will prejudge the issue for the simple reason that the disciplinary proceedings against respondent No.5 comes to a conclusion now. The said circumstance need not necessarily mean that the action of the petitioner in placing respondent No.5 under suspension was totally unjustified and illegal. The petitioner might have had his own reasons which justified his action at that point of time. Necessarily the statutory authority must address the said issue untrammelled by any of the observations made by this court or any other statutory authority in the earlier proceedings. The authority has to keep in view the fact that respondent No.5 had been reinstated in service and the headmaster has retired from service. Petitioner has to be given sufficient opportunity to urge all his contentions in support of his action, if he chooses to do so. It is reiterated that the observations made in this judgment shall not be treated as an indictment of the petitioner in any manner. The statutory authority shall complete the proceedings, if any, pending against the petitioner under Rule 7 Chapter III of KER in accordance with law as expeditiously as possible, at any rate, within three months from the

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date of receipt of a certified copy of this judgment. The authority concerned shall issue appropriate orders regularising the period of suspension of respondent No.5 forth with. It has to be ensured by the petitioner that necessary documents for regularisation of service of respondent No.5, are forwarded to the appropriate authority for disbursement of her salary. This shall be done within one month from the date of receipt of a copy of this judgment.

In view of the above order passed in writ petition No.15828 of 2006, O.P.No.33614 and writ petition No.12258 of 2005, have become infructuous. Accordingly the writ petitions are dismissed. Writ petition No. 16828 of 2006 is disposed of in the above terms.

A.K.BASHEER, JUDGE

dvs